

DEPARTMENT OF STATE REVENUE
LETTER OF FINDINGS NUMBER: 28-960323 CSET
CONTROLLED SUBSTANCE EXCISE TAX
FOR TAX PERIODS: 1993

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE

1. CONTROLLED SUBSTANCE EXCISE TAX: IMPOSITION

Authority: IC 6-7-3-5

Taxpayer protests the assessment of Controlled Substance Excise Tax.

STATEMENT OF FACTS

Taxpayer was arrested for possession of marijuana. The Indiana Department of Revenue issued a record of Jeopardy Finding, Jeopardy Assessment Notice and Demand on July 16, 1993 in a base tax amount of \$19, 224.00. Taxpayer pled guilty to the possession of marijuana on May 28, 1996. Taxpayer filed a protest to the assessment. A hearing on the protest was held on January 18, 2000. Further facts will be provided as necessary.

Controlled Substance Excise Tax-Imposition

Discussion

IC 6-7-3-5 imposes the Controlled Substance Excise Tax on the possession of marijuana. Taxpayer admitted that he possessed the marijuana on which the tax was levied. He asserted, however, that the marijuana weighed less than the 480.60 grams on which the tax was levied. He was unable to offer any evidence to substantiate this claim. Therefore he did not satisfy his burden of proving that the assessment was incorrect.

Taxpayer further alleges that since his arrest, he has been a good citizen. He alleges that he has stopped using marijuana and alcohol. He alleges that he is raising his sixteen year old son. He alleges that he did not try to run from the prosecution. He alleges that he has also been seriously injured in an automobile accident and is currently unable to support himself and his son. Unfortunately, these allegations, even if proven to be true, do not cancel a tax liability.

Finding

Taxpayer's protest is denied.